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| 09/927,106 | 08/10/2001 | Brian Coleman | 80301-1850 | 3879 |
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| THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948 | | | EXAMINER PRICE, CARL D | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3749 | |

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,106

Applicant(s)

COLEMAN ET AL.

Examiner

CARL D. PRICE

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 29-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 29-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Summary

Applicant has canceled claims 1-28.

New claims 29-32 have been added.

Response to Arguments

Applicant's arguments with respect to claims 29-32 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's remarks directed to the prior art previously relied on to reject the claims have been fully reviewed.

There prior art references of Schlosser et al (US005934184A), Swaddey (U.S. Patent No.- 34987284), Lohmeyer et al (U.S. Patent No.- US4677964) and Crow, Jr. et al (US005186159A), Kalenian (US005505190A) and Alden et al (US006324998B1) are now cited for applicant's review and/or to address limitations of applicants' invention now set forth in newly added claims 29-32.

Analysis of the newly presented claims with regard to the prior art now of record follows.

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 29-32: Rejected under 35 U.S.C. 103(a)

Claims 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schlosser et al (US005934184A) or Lohmeyer et al (U.S. Patent No.- US4677964) in view of Elliott (U.S. Patent No.- 5065734)(of record).

Schlosser et al (US005934184A)

Schlosser et al (US005934184A) show and disclose a portable apparatus including:

- a grill (10) having a hood (210) and a firebox (100),
- a burner assembly (510) disposed in the firebox,
- a frame (26,27) substantially corresponding to and receiving the grill,
- a leg assembly (23) extending from the frame,
- a fuel container (900),

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- a burner fuel control valve (540) and fuel connector (512,543) both extending outwardly of the grill (see figure 8) through an opening in a side wall of the grill (see figure 8), and
- a removable side shelf (750) extending outwardly of the grill and including openings (751), extending through the thickness thereof, for access to and for receiving a portion of the valve (i.e. – the valve stem and control knob (560)) extending therethrough.

Regard the removable side shelf extending outwardly of the grill Schlosser et al discloses the following (see column 11, line 50):

(42) **The cast side walls or members 120 of the grill 10 of the present invention also includes two coplaner extension pieces 720, one extension piece per side member. FIGS. 19-21 show the details of these extension pieces. These opposed side extension pieces 720 each have a front edge 721 and top edge 722 and an upper channel or groove 724 therein along the top edge and a front channel or groove 723 therein along the front edge. A top face plate 750 having opposed sides slides into the two opposed upper channels 724 and is slid, locked and held at each side in one of the upper channels 724 of the extension piece 720 of a side member 120. Similarly, a front face plate 760 having opposed sides slides into and is locked into the two front channels 723 and is held at each side in one of the front channels 723 of the extension piece 720 of a side member 120.**

And, regarding the shelf/face plate of including openings receiving controls Schlosser et al discloses the following (see column 12, lines 24-31):

(46) **As seen in FIG. 8, the top face plate 750 has apertures 751 therein for receiving controls 560 for the burners 510 of the grill 10 and for controls 561 for igniting the burners. In the embodiment shown, there are six (6) control knobs 560 for the burner tubes 510 and three (3) ignitor buttons 561 for the three pairs of burner tubes. In addition, the preferred embodiment, the top face plate and the front face plate are porcelainized metal.**

Lohmeyer et al (U.S. Patent No.- US4677964)

Lohmeyer et al (U.S. Patent No.- US4677964) show and disclose a portable apparatus including:

- a grill (20) having a hood (58) and a firebox (80),
- a burner assembly (150) disposed in the firebox,
- a frame (40,42) substantially corresponding to and receiving the grill,
- a leg assembly (36) extending from the frame,
- a fuel container (210),
- a burner fuel control valve (140, 142) and fuel connector (not referenced) both extending outwardly of the grill (see figures 3 and 6) through a side wall opening (156) of the grill,
- a removable side shelf (138) extending outwardly of the grill and including openings (not referenced), extending through the thickness thereof, for access to and for receiving a portion of the valve (144) extending therethrough.

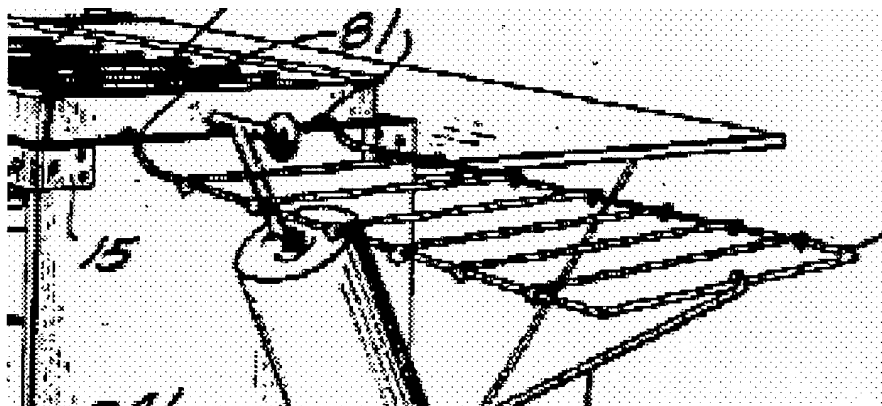
Each of Schlosser et al (US005934184A) and Lohmeyer et al (U.S. Patent No.- US4677964) show and disclose the invention substantially as set forth in applicants' claims with possible exception to the leg assembly being adjustable and the shelf opening being formed in an edge portion of the shelf (i.e. - rather than as a circular hole set back from edges of the shelf).

Oster (U.S. Patent No.- 1,582,346)

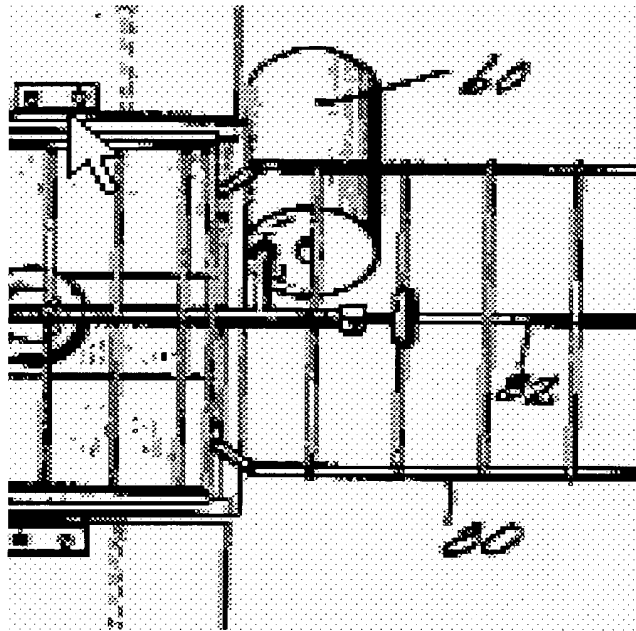
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Oster (U.S. Patent No.- 1,582,346) teaches, form the same portable cooking grill field of endeavor as a portable grill apparatus comprising: a firebox (D) having at least one cooking surface (59) thereon; a burner (55) assembly being disposed in the grill, the burner assembly being capable of heating an interior portion of the grill. Oster shows a leg assembly extending from a frame (11) arranged and configured to substantially correspond to the grill firebox and to receive and support the grill. Additionally, Oster shows a removable planar side shelf (80) extending outwardly from the firebox. The shelf (80) includes an aperture (not referenced) defined by a recess disposed in an edge (see figure 2) of the side shelf and through which a fuel gas conduit and control knob (not referenced; Note that the “knob” like feature illustrated in Figures 2 and 3 of Oster would have been recognized by a person having ordinary skill in the art at the time of the invention as a fuel feed control valve assembly – see for example element (22) of Weatherwax (US2852016)) extends to provide access to a fuel source (60).

(From figure 2 of Oster)



(From Figure 3 of Oster)



Oster also shows (Figures 1,2) and discloses adjustable legs (C) extending from the frame (11). In regard to the adjustable legs Oster (U.S. Patent No. - 1,582,346) discloses (see pages 2, lines 82-94):

Upon the application of the legs C so that the brackets 45 engage the straps 44, it is obvious that the body B will be supported by said legs at a lesser elevation. This provision of adjusting the legs C in the body B enables the cabinet A to be used for cooking or eating purposes at various elevations. It should be noted that the legs C may be detachably connected with the straps 44 in a relation which will stably support the cabinet A against liability of vibrating or tipping.

In regard to claims 29-32, for the purpose of permitting various elevations for cooking and eating purposes, it would have been obvious to a person having ordinary skill in the art to modify the leg structure of each of Schlosser et al (US005934184A) and Lohmeyer et al (U.S. Patent

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No.- US4677964) to include an adjustable leg assembly, in view of the teaching of Oster. Also, in regard to claim 30, in particular, to for the Schlosser et al (US005934184A) and Lohmeyer et al (U.S. Patent No.- US4677964) shelf opening not as a discrete hole but as a recessed portion of the edge of the shelf would have been obvious to a person having ordinary skill in the art in view of the teaching of Oster.

Conclusion

See the attached PTO FORM 892 for prior art made of record and not relied upon and which are considered pertinent to applicant's disclosure.

USPTO CUSTOMER CONTACT INFORMATION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CARL D. PRICE whose telephone number is 703-308-1953. The examiner can normally be reached on Monday through Friday between 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 703-308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



CARL D. PRICE
Primary Examiner
Art Unit 3749

Cp